

AO 91 (Rev. 08/09) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

Northern District of California

United States of America

v.

ROBERT CROSBY

Case No.

4-11-71205

*Defendant(s)*

*FILED*  
*OCT 24 2011*  
 RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND, CALIFORNIA

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 12, 2011 in the county of Alameda in the  
Northern District of California, the defendant(s) violated:

*Code Section*  
 18 U.S.C. § 922(g)(1)

*Offense Description*  
 Felon in possession of a firearm.

Penalties: 10 years maximum prison  
\$250,000 fine  
3 years supervised release  
\$100 special assessment

This criminal complaint is based on these facts:

See attached AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

Continued on the attached sheet.

Approved as to form:

Brigid Martin  
 AUSA Brigid Martin

Frank Cheng  
 Complainant's signature

Frank Cheng, Special Agent  
 Printed name and title

Sworn to before me and signed in my presence.

Date:

10/24/11

CJL  
 Judge's signature

City and state: Oakland, California

Hon. Laurel Beeler  
 Printed name and title

1                   **AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

2                   I, Frank Cheng, Special Agent of the Bureau of Alcohol, Tobacco, Firearms, and  
3 Explosives, being duly sworn, hereby declare as follows:

4                   **I.        INTRODUCTION**

5                   1.        I am a Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives  
6 (ATF), and have been so employed since May 2008. My responsibilities include investigating  
7 violations of the federal firearms and narcotics laws. I have also conducted surveillance on  
8 individuals committing crimes of violence and trafficking in firearms and illegal narcotics, and of  
9 prohibited persons in possession of firearms and persons possessing illegal firearms. I have  
10 received training in, among other things, how to conduct firearms and narcotics investigations  
11 and the identification and investigation of organized gangs. I completed the professional training  
12 at the Federal Law Enforcement Training Center, Glynco, Georgia: Criminal Investigator  
13 Training Program (13 weeks) and ATF Special Agent Basic Training (14 weeks). I am an  
14 investigative or law enforcement officer of the United States within the meaning of 18 U.S.C. §  
15 2510(7), and as such I am authorized to investigate violations of the laws of the United States  
16 and execute warrants issued under the authority of the United States.

17                  **II.      PURPOSE OF THIS AFFIDAVIT**

18                  2.        This affidavit is being submitted in support of a criminal complaint and arrest  
19 warrant charging ROBERT CROSBY with being a felon in possession of a firearm in violation  
20 of 18 U.S.C. § 922(g)(1).

21                  3.        Because this affidavit is being submitted for the limited purpose of securing a  
22 criminal complaint and arrest warrant, I have not included each and every fact known to me  
23 concerning this investigation. I have set forth only those facts that I believe are necessary to  
24 establish probable cause to believe that, on or about October 12, 2011, CROSBY, who was  
25 previously convicted of a felony punishable by a term of imprisonment exceeding one year,  
26 possessed a firearm in violation of 18 U.S.C. § 922(g)(1). The statements contained in this  
27 affidavit are based on information provided to me by law enforcement officers as well as my  
28 training, experience, and knowledge of this investigation.

1      **III. PROBABLE CAUSE**

2      4. According to Oakland Police Department Crime Reports, on October 12, 2011, at  
3      approximately 12:00 a.m., in the 8700 block of Holly Street in Oakland, two Oakland Police  
4      Department (OPD) Officers on uniformed patrol observed a man later identified as CROSBY  
5      drinking from an open bottle of Belvedere vodka.

6      5. The OPD officers got out of their patrol car and approached CROSBY to contact  
7      him about drinking alcohol in public, a violation of Oakland Municipal Code § 9.08.180(a)(1).  
8      As the officers walked toward CROSBY, CROSBY placed the open vodka bottle on the  
9      sidewalk and ran down Holly Street toward 87<sup>th</sup> Avenue. One of the officers chased after  
10     CROSBY on foot; the second officer followed in the patrol car. The officer on foot saw that  
11     CROSBY had both of his hands holding the area near the front of his waistband as he ran,  
12     leading the officer to believe that CROSBY may be concealing a firearm.

13     6. The officer continued his foot pursuit of CROSBY turning off of Holly Street and  
14     running south on 87<sup>th</sup> Avenue. A few houses south of Holly Street, the officer saw CROSBY's  
15     shoulders jerk to the side and heard a metal object hit the wrought iron fence in front of 1470 87<sup>th</sup>  
16     Avenue. After that, CROSBY no longer held his waistband as he ran.

17     7. The officer yelled for CROSBY to stop multiple times but CROSBY continued to  
18     run, turning off of 87<sup>th</sup> Avenue onto International Boulevard. CROSBY ran across International  
19     Boulevard, shedding his jacket in the middle of the road and leaving it on the concrete center  
20     divide. Just after dropping his jacket, CROSBY slowed his pace and the officer drew his weapon  
21     and stopped CROSBY. The second officer who had been following in the patrol car, got out and  
22     handcuffed CROSBY.

23     8. Officers immediately recovered CROSBY's jacket. The left pocket of  
24     CROSBY's jacket contained a magazine clip for a nine-millimeter firearm loaded with ten  
25     rounds of nine-millimeter ammunition. The right pocket of CROSBY's jacket contained 84  
26     balloons of suspected heroin. One of the balloons was analyzed by the OPD Criminalistics  
27     Division and confirmed to contain heroin.

28     9. OPD officers also recovered a firearm behind the wrought iron fence in front of

1 1470 87<sup>th</sup> Avenue, a Taurus Model PT92 nine-millimeter semiautomatic handgun, serial number  
2 TVI66542. The firearm was not loaded and did not contain a magazine.

3 10. On or about March 29, 2006, CROSBY was convicted in Alameda County  
4 Superior Court of a violation of California Penal Code Section 459, burglary, a felony punishable  
5 by a term of imprisonment exceeding one year.

6 11. Based upon my training and experience as an ATF Special Agent, and  
7 conversations I have had with other experienced ATF Special Agents, I know that Taurus  
8 firearms are not, and never have been, manufactured in the state of California.

9 **IV. CONCLUSION**

10 12. Based on the facts and information detailed in the affidavit, I believe probable  
11 cause exists that ROBERT CROSBY possessed a firearm in violation of 18 U.S.C.  
12 § 922(g)(1), when he possessed a Taurus Model PT92 nine-millimeter semiautomatic handgun  
13 which had previously been transported in interstate or foreign commerce, after he had been  
14 convicted of a crime punishable by imprisonment for a term exceeding one year. As such, I  
15 respectfully request a warrant for his arrest.

16

17 Under penalty of perjury, I swear that the foregoing is true and correct to the best of my  
18 knowledge, information and belief.

19 \_\_\_\_\_  
20   
21 Frank Cheng  
22 Special Agent, Bureau of Alcohol, Tobacco,  
23 Firearms, and Explosives

24 SWORN BEFORE ME  
ON OCTOBER 24, 2011

25 \_\_\_\_\_  
26   
27 HONORABLE LAUREL BEELER  
28 UNITED STATES MAGISTRATE JUDGE